REMARKS

In the Official Action mailed on **December 27, 2004**, the Examiner reviewed claims 1-43. Claims 1-43 were rejected under 35 U.S.C. 102(e) as being anticipated by Pedersen et al. (USPN 5,862,348, hereinafter "Pedersen").

Rejections under 35 U.S.C. § 102(e)

Independent claims 1, 13, 25, and 38 were rejected as being anticipated by Pedersen. Applicant respectfully points out that Pedersen teaches a **serial election process** (see Pedersen column 5, lines 32-48 and FIG. 4). A node (requesting node) broadcasts its election criteria. If the node receiving this election criteria (receiving node) has higher election criteria than the requesting node, the receiving node broadcasts its own election criteria to the other nodes. In response to this second broadcast by the previous receiving node, if another receiving node has higher election criteria, it broadcasts its election criteria. This process continues serially until a new primary node is found.

In contrast, in the present invention, each active node executes the process of selecting and configuring a primary server **concurrently** (see page 9, lines 11-15 of the instant application). Note that the disqualification process described in independent Claim 38 is part of the primary server selection process and therefore also operates concurrently on all active nodes (see page 10, lines 16-19; FIG. 4 and FIG. 6 of the instant application). This is beneficial because a highly available system requires minimal down-time and by executing the selection process concurrently on all active nodes, the service can be restored quickly after a server failure thereby reducing down-time.

Accordingly, Applicant has amended independent claims 1, 13, 25, and 38 to clarify that the process to select and configure a primary server *occurs concurrently on all active nodes..* These amendments find support on page 9, lines 11-15; page 10, lines 16-19; FIG. 4 and FIG. 6 of the instant application.

Hence, Applicant respectfully submits that independent claims 1, 13, 25, and 38 as presently amended are in condition for allowance. Applicant also submits that claims 2-12, which depend upon claim 1, claims 14-24, which depend upon claim 13, claims 26-37, which depend upon claim 25, and claims 39-43, which depend upon claim 38 are for the same reasons in condition for allowance and for reasons of the unique combinations recited in such claims.

CONCLUSION

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

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